



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 8, 1994

Ms. Helen M. Gros
Division Chief of General Counsel
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR94-334

Dear Ms. Gros:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.¹). Your request was assigned ID# 23656.

The City of Houston (the "city") received an open records request for a Houston Fire Department Emergency Medical Services "run sheet." The information requested shows information about a named patient who was treated by emergency medical service personnel. You contend that this information may be withheld from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code (former § 3(a)(3), V.T.C.S. art. 6252-17a). However, we conclude that since access to the requested information is governed by provisions outside of the Open Records Act, this exception is not applicable.

The records at issue, which were submitted to this office for review, are governed by section 773.091 of the Health and Safety Code (the Emergency Medical Services Act). Section 773.091(b) provides:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

Section 773.092(e)(4) provides for the release of these records to "any person who bears a written consent of the patient or other persons authorized to act on the patient's behalf for the release of confidential information as provided by Section 773.093."

Section 773.093 outlines the requirements for such written consent:

(a) Consent for the release of confidential information must be in writing and signed by the patient, a parent or legal guardian if the patient is a minor, a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs, an attorney ad litem appointed for the patient, or a personal representative if the patient is deceased. The written consent must specify:

- (1) the information or records to be covered by the release;
- (2) the reasons or purpose for the release; and
- (3) the person to whom the information is to be released.

This office considered the requirements for releasing records under the Emergency Medical Services Act in Open Records Decision No. 598 (1991). That opinion stated that compliance with the statutory provision would mandate release of records:

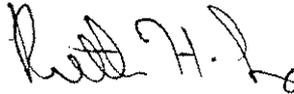
Section 773.091 thus provides for the same confidentiality, exceptions to confidentiality, and requirements for release of the information at issue as does section 5.08 of the Medical Practice Act, without conflicting with the provisions of that act. Although release of the information to one qualified to have it is not explicitly mandated by section 773.091 *et seq.*, we believe that reading the statute in harmony with the Medical Practice Act requires such a result as to these records.

Id. at 4, n.2.

Information provided to this office indicates that the individual whose records have been requested is deceased. The requestor may be a personal representative as defined by section 773.093(a). If the requestor is a personal representative and the written consent for release complies with the requirements of section 773.093, the city must release the requested records. *See* Open Records Decision No. 598.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/MRC/sbm

Ref.: ID# 23656

Enclosures: Submitted documents

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